

The City Council of the City of Mattoon held a regular meeting in the Council Chambers at City Hall on September 18, 2007 at 7:03 p.m. after the 6:30 p.m. caucus session, where the Council discussed pending agenda items municipal savings account; 9th Street & Rudy intersection; YMCA’s progress; City’s general liability/W/C insurances; and 32nd & Prairie intersection.

Mayor White presiding.

Mayor White led the Pledge of Allegiance.

The following members of the Council answered roll call in person: YEA Commissioner David Cline, YEA Commissioner Randy Ervin, YEA Commissioner Joseph McKenzie, YEA Commissioner David Schilling, YEA Mayor Charles E. White.

Also in attendance in person were City personnel: City Administrator Alan Gilmore, City Attorney/Treasurer J. Preston Owen, Public Works Director David Wortman, Fire Chief Mike Chism, Assistant Chief Andy Adair, Community Development Coordinator Kyle Gill, Police Chief David Griffith, Technology Coordinator Brian Johanpeter, and City Clerk Susan J. O’Brien.

CONSENT AGENDA

Items listed on the Consent Agenda are considered to be routine in nature and will be enacted by one motion. Prior to asking for a motion to approve the Consent Agenda, the mayor will ask if anyone desires to remove an item from the Consent Agenda for public discussion. No separate discussion of these items will occur unless a Council Member requests the item to be removed from the Consent Agenda. If an item is removed from the Consent Agenda, it will be considered elsewhere on the agenda for this meeting.

Mayor White seconded by Commissioner Schilling moved to approve the consent agenda consisting of: minutes of the regular meeting September 4, 2007; Fire department report for the month of August, 2007; and payroll and bills for the first half of September, 2007.

Bills & Payroll for the first half of September

General Fund

Payroll	\$	270,580.26
Bills	\$	<u>327,663.53</u>
Total	\$	598,243.79

Hotel Tax Fund

Payroll	\$	1,890.95
Bills	\$	<u>410.37</u>
Total	\$	2,301.32

Festival Management

Bills	\$	<u>255.60</u>
Total	\$	255.60

Midtown TIF Fund

Bills	\$	<u>94.58</u>
Total	\$	94.58

Capital Project Fund

Bills	\$	<u>16,342.47</u>
Total	\$	16,342.47

Water Fund

Payroll	\$	31,923.92
Bills	\$	<u>64,876.33</u>
Total	\$	96,800.25

Sewer Fund

Payroll	\$	24,979.66
Bills	\$	<u>25,907.66</u>
Total	\$	50,887.32

Cemetery Fund

Payroll	\$	3,621.32
Bills	\$	<u>2,374.13</u>
Total	\$	5,995.45

Health Insurance

Bills	\$	<u>65,852.54</u>
Total	\$	65,852.54

Motor Fuel Tax Fund

Bills	\$	<u>1,760.69</u>
Total	\$	1,760.69

Mayor White declared the motion to approve the consent agenda carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

PUBLIC PRESENTATIONS, PETITIONS AND COMMUNICATIONS

This portion of the City Council meeting is reserved for persons who desire to address the Council. The Illinois Open Meeting Act mandates that the City Council may NOT take action on comments received on matters that have not been identified on this agenda, but the Council may direct staff to address the topic or refer the matter for action on the agenda for another meeting. Persons addressing the Council are requested to limit their presentations to three minutes and to avoid repetitious comments.

There was no public discussion.

NEW BUSINESS

Mayor White seconded by Commissioner McKenzie moved to approve Council Decision Request 2007-792, authorizing the Police Chief to exchange a Court-ordered forfeited 2006 Yamaha racing 4-wheeler with World of Powersports-Decatur for a 2007 Yamaha utility 4-wheeler. This is an even trade.

Mayor White opened the floor for discussion. Mr. Herb Meeker of the Journal Gazette asked Chief Griffith when the forfeit was granted with Chief Griffith responding three months prior.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Commissioner Ervin seconded by Commissioner Cline moved to approve Council Decision Request 2007-793, awarding the bid from Foster Coach Sales, Inc. in the amount of \$105,593.00 for a new 2008 Fire Department ambulance, and authorizing the Mayor to sign all documents.

Mayor White opened the floor for discussion. Commissioner Schilling inquired as to the use of the old rescue vehicle with Chief Chism's response as the Fire Department utilizing the vehicle in routine maintenance of fire hydrants and other functions.

Mayor White opened the floor for discussion.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin,

YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Commissioner Ervin seconded by Commissioner McKenzie moved to approve Council Decision Request 2007-794, authorizing the Mayor to sign an agreement with Industrial Organizational Solutions, Inc. for the testing of new recruitments for the Mattoon Fire Department.

Mayor White opened the floor for discussion. No discussion.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner Cline moved to approve Council Decision Request 2007-795, authorizing Chief David Griffith to take all necessary actions required to meet the requirements of Illinois Criminal Justice Information Authority Grant funding for the acquisition of two Police Department Mobile Data Computers. This grant requires a 25% City match.

Mayor White opened the floor for discussion. No discussion.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Commissioner Cline seconded by Commissioner Schilling moved to adopt Ordinance 2007-5238, enacting Section 35.05 establishing an investment policy for the City.

CITY OF MATTOON, ILLINOIS

ORDINANCE 2007 - 5238

AN ORDINANCE ENACTING SECTION 35.05 OF THE MATTOON CODE OF ORDINANCES ESTABLISHING AN INVESTMENT POLICY FOR THE CITY OF MATTOON

WHEREAS, the City desires to implement a policy stating the guidelines for the investing of the monies of the City of Mattoon; and,

WHEREAS, the City of Mattoon has the duty to safeguard the monies of the City of Mattoon in accordance with state statutes; and,

WHEREAS, state statute requires the City of Mattoon to establish an investment policy.

NOW THEREFORE, BE it ordained by the City Council for the City of Mattoon, Coles County, Illinois, as follows:

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Investment Policy. Section §35.05 of Chapter 35 of the Municipal Code is hereby enacted as follows:

35.05 INVESTMENT POLICY

(A) *Policy.* It is the policy of the City of Mattoon to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all federal, state and local statutes governing the investment of public funds.

(B) *Scope.* This policy includes all funds governed by the City Council.

(C) *Prudence.* Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment,

considering the probable safety of their capital, as well as the probable income to be derived. The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio.

(D) *Objective.* The primary objective, in order of priority, shall be:

- (1) Legality - conformance with federal, state and other legal requirements.
- (2) Safety - preservation of capital and protection of investment principal.
- (3) Liquidity - maintenance of sufficient liquidity to meet operating requirements.
- (4) Yield - attainment of market rates of return

The portfolio shall be reviewed annually as to its effectiveness in meeting the City's needs for safety, liquidity, rate of return, diversification and its general performance.

(E) *Delegation of Authority.* Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who, under the delegation of the City Council, shall establish written procedures for the operation of the investment program.

(F) *Ethics and Conflicts of Interest.* Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

(G) *Authorized Financial Dealers and Institutions.* The City Council will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by credit worthiness.

(H) *Authorized and Suitable Investments.* Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

(I) *Collateralization.* Funds on deposit (checking accounts, certificates of deposit, etc.) in excess of FDIC limits must be secured by some form of collateral, witnessed by a written agreement and held at an independent - third party institution in the name of the municipality.

(J) *Safekeeping and Custody.* All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

(K) *Diversification.* The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

(L) *Maximum Maturities.* To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than 2 years from the date of purchase. Reserve funds may be invested in securities exceeding 10 years if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

(M) *Internal Control.* The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (1) Control of collusion.
- (2) Separation of transaction authority from accounting (if possible).
- (3) Custodial safekeeping.

(4) Written confirmation of telephone transactions for investments and wire transfers.

(N) *Performance Standards.* This investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio.

(O) *Reporting.* The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available on request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council.

(P) *Marking to Market.* A statement of the market value of the portfolio shall be issued to the City Council quarterly.

(Q) *Investment Policy Adoption.* The investment policy shall be adopted by the City Council. The policy shall be reviewed on an annual basis by the Treasurer and any modifications made thereto must be approved by the City Council.

Section 4. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 5. This ordinance shall be effective upon its publication and approval as provided by law.

Upon motion by Commissioner Cline, seconded by Commissioner Schilling, adopted this 18th day of September 2007, by a roll call vote, as follows:

AYES (Names): Commissioner Cline, Commissioner Ervin,
Commissioner McKenzie, Commissioner Schilling,
Mayor White

NAYS (Names): None

ABSENT (Names): None

Approved this 18th day of September, 2007

/s/ Charles E. White
Charles E. White, Mayor
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen
J. Preston Owen, City Attorney

Recorded in the Municipality's Records on September 19, 2007.

Mayor White opened the floor for discussion. No discussion.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner Cline moved to adopt Ordinance 2007-5239, amending Chapter 114 of the Code of Ordinances to enable the sale of liquor by outdoor cafes authorized by permit.

CITY OF MATTOON, ILLINOIS

ORDINANCE 2007-5239

AN ORDINANCE AMENDING CHAPTER 114 OF THE MATTOON CODE OF ORDINANCES TO ENABLE SALE OF LIQUOR BY OUTDOOR CAFES AUTHORIZED BY A PERMIT

WHEREAS, several Mattoon business owners have requested permission to operate outdoor cafés upon City sidewalks; and,

WHEREAS, the City of Mattoon has the right to liquor sales in accordance with the Laws of the State of Illinois; and,

WHEREAS, the City of Mattoon wishes to encourage further development in Mattoon and the redevelopment of Mid-town Mattoon; and,

WHEREAS, the City Council deems it in the best interest of the citizens of Mattoon that Chapter 114 of Ordinances be amended to allow outdoor cafés on City-owned sidewalks to sell alcohol.

NOW THEREFORE, be it ordained by the City Council for the city of Mattoon, Coles County, Illinois, as follows:

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Chapter 114 of the Municipal Code is hereby amended as follows:

Section 114.03 of the Mattoon Code of Ordinance is amended by adding:

OUTDOOR CAFÉ. Outdoor Café shall mean a use of public sidewalk by a food service establishment for the serving of food and beverages. The use will be characterized by the outdoor use of tables, chairs and umbrellas.

Section 114.04 PUBLIC POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUOR

(A) *Public Possession of Alcoholic Liquor.* It shall be unlawful to carry or possess any alcoholic liquor, other than in the original package with the seal unbroken, on any public street, parkway, park, public or private school grounds or public place whatsoever, with the exception of that space occupied by a properly licensed outdoor café.

(B) *Public consumption of Alcoholic Liquor.* It shall be unlawful to drink any alcoholic liquor on any public street, parkway, park, public or private school ground or public place with the exception of that space occupied by a properly licensed outdoor café.

Section 114.22.2 OUTDOOR CAFÉ LIQUOR PERMIT

(A) Upon approval of application and payment of application fees as set forth in 114.17 and 114.18, a Class R Restaurant License holder may operate an outdoor café where alcohol may be served. The liquor Licensee shall:

(1) Not allow or permit any customer, employee or other person to remove alcoholic liquor from the area designated in the outdoor café permit or the service premises of the licensee.

(2) Not serve, allow or permit any person to be served, be in possession of, or consume alcoholic liquor in the area designated in the outdoor café permit unless that person is utilizing the seating which has been proved in accordance with the site plan approved with the outdoor café permit.

(3) Comply with all requirements set forth in Chapter 114 of the Code of Ordinances.

(4) Provide table service, which shall include food service, in the outdoor café area during the hours when alcoholic liquor is permitted to be served.

(5) The outdoor café area shall be subject to all provisions of this Chapter and Chapter 99 Section 55 as though the outdoor café area was part of the licensee's service premises during the times permitted by this section for alcoholic liquor sales.

(6) Prior to the issuance of an Outdoor Café Liquor Permit the licensee shall provide proof of dram shop insurance. The policy shall name the City of Mattoon as an additional insured and will indemnify and hold it harmless from any action, proceeding or claim of liability asserted against it as a result of the operation of an outdoor café. Failure by the licensee to maintain the insurance requested by this section shall result in the revocation of the license.

(7) The annual fee for this permit will be One Hundred Dollars (\$100.00) and shall expire December 31st of each year.

Section 114.99 PENALTY

Any person, firm or corporation violating any provision of this chapter shall be fined not less than \$100.00 nor more than \$1,000.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to any fine imposed, the Mattoon Liquor Commissioner may also suspend or revoke any license issued under this chapter.

Section 3. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 4. Effective Date. This ordinance shall be effective upon its publication and approval as provided by law.

Upon motion by Mayor White, seconded by Commissioner Cline, adopted this 18th day of September, 2007, by a roll call vote, as follows:

AYES (Names): Commissioner Cline, Commissioner Ervin,
Commissioner McKenzie, Commissioner Schilling,
Mayor White

NAYS (Names): None

ABSENT (Names): None

Approved this 18th day of September, 2007

/s/ Charles E. White
Charles E. White, Mayor
City of Mattoon, Coles County, Illinois

ATTEST: APPROVED AS TO FORM:

/s/ Susan J. O'Brien
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen
J. Preston Owen, City Attorney & Treasurer

Recorded in the Municipality's Records on September 19, 2007.

Mayor White opened the floor for discussion. Administrator Gilmore described the details of the liquor license requirements and conditions. Ms. Phyllis Parmer voiced her and Mattoon Women Christian Temperance Unions concern over the new liquor permits. Administrator Gilmore and Commissioner Ervin expressed reassurance of the limited access to the licenses and compliances for the permit. Mr. Chris Rankin of the Coles County Leader inquired whether Villa Pizza would also be eligible for the outdoor café and liquor license with Administrator Gilmore answering affirmatively.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner McKenzie moved to adopt Ordinance 2007-5240, enacting Section 99.55 of the

Code of Ordinances to allow the use of sidewalks for cafes.

CITY OF MATTOON, ILLINOIS

ORDINANCE 2007 - 5240

**AN ORDINANCE ENACTING SECTION 99.55 OF THE
MATTOON CODE OF ORDINANCES TO ALLOW
THE USE OF SIDEWALKS FOR CAFÉS**

WHEREAS, several Mattoon business owners have requested permission to operate outdoor cafés upon City sidewalks; and,

WHEREAS, the City of Mattoon has the right to regulate sidewalks in accordance with the Laws of the State of Illinois; and,

WHEREAS, the City of Mattoon wishes to encourage further development in Mattoon and the redevelopment of Mid-town Mattoon; and,

WHEREAS, the City Council deems it in the best interest of the citizens of Mattoon that Section 99.55 of the Code of Ordinances be enacted to allow outdoor cafés on City-owned sidewalks.

NOW THEREFORE, be it ordained by the City Council for the City of Mattoon, Coles County, Illinois, as follows:

Section 1. Recitals. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Use of Sidewalks for Cafés. Section §99.55 of Chapter 99 of the Municipal Code is hereby enacted as follows:

99.55 USE OF SIDEWALKS FOR CAFÉS

(A) *Permit Required.* It shall be unlawful for any person, firm, corporation, organization or association to use the public sidewalk for the operation of a sidewalk café, whether offering direct service to the table or not, without obtaining a sidewalk café permit. Permits will be issued only to businesses owning or leasing property immediately adjacent to an improved sidewalk within a public right-of-way. No permit shall be issued to any business which is not in compliance with all provisions of the Mattoon Code of Ordinances.

(B) *Definition.* Outdoor café shall mean a use of public sidewalk by a food service establishment for the serving of food and beverages. The use will be characterized by the outdoor use of tables, and chairs, umbrellas, and perimeter boundary defining barriers.

(C) *Application.* Application for an outdoor café permit shall be made on forms supplied by the City, and submitted to the City Clerk for review by the Community Development Coordinator. The application shall require the following:

(1) The name, address, and telephone number of the owners of the property and the food service establishment related to the permit.

(2) A copy of a valid permit or license from the Coles County Health Department.

(3) A drawing or sketch which will include the dimensions of the proposed permit area and which shows the location and type of the tables, chairs, trash receptacles, and other equipment proposed to be used, location of ingress and egress, the curb line and any existing public or utility-owned equipment facilities in or adjacent to the area proposed which are visible to the eye, including but not limited to parking meters, trees, manhole covers and utility poles or openings.

(4) An operations plan specifying the proposed dates, days and hours of operation of the outdoor café, the hours of operation of the adjacent restaurant, scheduled maintenance of the permit area, maximum seating capacity, and method of providing security and maintenance.

- (5) An original of a certificate of insurance listing the required coverage amounts and policy periods of the permittee's general liability policies.
 - (6) An executed waiver of liability in a form approved by the City Attorney.
 - (7) Any other information related to the requirements of this chapter that the Mayor or City Clerk deems necessary.
- (D) *Review of applications.* The City Clerk shall review the application for a sidewalk café permit and determine whether to issue the permit. No permit shall be issued pursuant to this article unless the Community Development Coordinator has determined the following:
- (1) There are no outstanding fines, fees, taxes or other charges due and owed to the City by the applicant or the owners of the real property on which the establishment is located.
 - (2) The applicant has supplied all of the information required on or by the application, and any additional information requested by the City Clerk.
 - (3) All of the requirements of this article have been met.
- (E) *Additional Conditions.* The Clerk may impose conditions upon the issuance of a sidewalk café permit in order to protect the use of adjacent right-of-way for its intended purpose, to prevent congestion of vehicular or pedestrian traffic flow and to otherwise carry out the purpose and intent of this article and this Code.
- (F) *Regulations.* All permit holders are subject to the following regulations:
- (1) An outdoor café is permitted only on sidewalks. The permit area shall be immediately adjacent to the establishment requesting the permit, or on sidewalks contiguous to the sidewalk adjacent to the establishment.
 - (2) No permit will be allowed if seats or equipment in the outdoor café result in the need for additional restrooms or additional parking and unless such additional restrooms or parking are provided.
 - (3) Outdoor Café permits are valid from April 1 to October 31 of each year. All permits shall expire annually on November 1st of each year.
 - (4) The hours when service is permitted at the outdoor café shall be during business hours of the permittee.
 - (5) Any person making use of an outdoor café shall do so in a reasonable manner with due regard for the health and safety of persons and property. No permittee shall make any physical alteration to public property without the written permission of the Public Works Director. A permittee shall owe a duty to the City of Mattoon and third persons to maintain the permit area in a clean, safe and sanitary condition.
 - (6) The permittee shall keep the permit area free of litter, cans, bottles and spills at all times. The permittee shall promptly collect and dispose of all litter, trash and other waste materials associated with the outdoor café, including material in the adjacent public right-of-way or property originating from the outdoor café. The permittee shall dispose of any such waste in their trash containers only, no trash may be put into City-maintained trash receptacles.
 - (7) No cooking or food preparation shall be permitted at any time within the permit area.
 - (8) Upon the expiration or other termination of an outdoor café use permit, the permittee shall immediately remove all tables, chairs, furnishings, equipment and other items of personal property from the permit area. Any such items remaining on the public right-of-way may be removed and disposed of by the City of Mattoon at the sole cost and expense of the permittee.
 - (9) No live entertainment shall be allowed at any time within the permit area. This provision shall not prohibit piped-in-sound, so long as such sound otherwise complies with the City's noise regulations.

- (10) Only the following types of furniture or other equipment may be located in an outdoor café; tables and chairs, umbrellas, waste receptacles, bussing carts, one (1) sandwich board sign.
- (11) All items placed on the sidewalk must be located in accordance with the approved drawing submitted with the application for permit. If the permittee wished to change the location of items on the sidewalk a drawing of the new configuration must be submitted to the Community Development Coordinator for approval.
- (12) All items must be placed so as not to create hazards. Incidental items placed in the public sidewalk during the operations of the permittee shall be properly weighted to prevent a wind-blown hazard and shall be removed at the end of each business day.
- (13) Said furniture and other equipment shall be portable, shall not be chained, bolted or otherwise secured together as a unit, shall not be affixed to the surface of the permit area, and shall be removed on a nightly basis within thirty minutes after cessation of service in the outdoor café.
- (14) Tables shall be freestanding with detached chairs or seating, unless it is determined that another design meets the intent of these regulations and a specific exception is permitted in writing by the Community Development Coordinator.
- (15) Umbrellas shall have a maximum diameter of six (6) feet, a weighted base and be fabric covered.
- (16) No signs, banners, sandwich boards or other like advertising, except for one sandwich board, no larger than six (6) square feet in area on any one of two sides, no greater than four (4) feet in height, shall be located in the permit area.
- (17) Tables, chairs, umbrellas, sandwich boards, and other permissible equipment shall be located in the outdoor café area so that there remains open, at all times, a longitudinal walking space, the location of which shall be determined by the Community Development Coordinator or designee, of a minimum of four (4) feet in width, which distance may be increased if the Community Development Coordinator deems it necessary for pedestrian safety, with a cross-slope not to exceed Americans and Disability Act (ADA) requirements.
- (18) The placement of portable heaters must be reviewed and approved by the City's Fire Chief.
- (19) The City Clerk and Community Development Coordinator may promulgate administrative rules relating to the requirements contained in this article. Such rules shall be attached to the permit and be followed by the permittee.
- (20) Subject to the requirements of the Code, the permit holder shall, as part of the right granted pursuant to the permit, be entitled to remove or exclude persons from the permit area during hours of business operation, such permittee is authorized to give notice to any such person to prevent such entry. No cover charge or minimum purchase may be required for admittance to an outdoor café area in the public right-of-way.
- (G) *Fees.* The fee for a sidewalk café permit shall be \$25.00 per table per season. The fee shall be paid upon the issuance of the permit.
- (H) *Indemnification; Payment for Cleaning or Damages.* As an express condition of the issuance of the permit, each permittee shall agree in writing to indemnify and hold harmless the City against all claims, liability, loss, injury, death or damage whatsoever in connection with or arising out of the use of the outdoor café by anyone, except where the claim is the result of the sole negligence of the City. Additionally, as an express condition of the issuance of the permit, the permittee shall agree to, within seven (7) days after the billing date, pay to the City all costs associated with damage to the pavement or other City-owned facilities located in or adjacent to the permit area caused by operation of the food service establishment, or the cleaning of or trash removal from the permit area or adjacent premises occasioned by the failure of the permittee to clean or remove such trash.
- (I) *Insurance Requirements.* All persons, prior to receiving a permit, shall procure and maintain for the duration of the permit, public liability and property damage insurance pertaining to the permit area in a minimum amount of two million dollars (\$2,000,000.00) per person and two million dollars (\$2,000,000.00) in the aggregate per occurrence and property damage in a minimum amount of Two Million dollars (\$2,000,000.00), which shall name the City of Mattoon, its officers and employees as additional insureds and the same shall provide that the policy shall not be terminated or be canceled prior to the expiration date without

thirty (30) days advance written notice to the City. Proof of such insurance, issued by an insurance company licensed to do business in the State of Illinois in the form of a certificate of insurance, shall be attached to the application.

(J) *Enforcement.*

(1) The City may inspect the permit area at any time. The City shall mail or deliver the results of the inspection to the permittee.

(2) Any violation of the provisions of this article shall be remedied within the time given in the notice or if not stated in the notice, within seven (7) calendar days from the date of delivery of post-mark on the notice.

(3) The use of a public sidewalk as an outdoor café shall be subject to temporary suspension or termination at any time by the City in the interest of the public health, safety and welfare. To the extent that a permit area is needed by the City for the purposes for which it was dedicated, or any other public purpose, the City may immediately terminate the revocable use permit by sending written notice to the permittee and assume full possession and control of the permit area. The permittee shall remove all furniture from the right-of-way within the time specified by the notice. If the furniture is not removed by the permittee, the City shall be authorized to remove all furniture and other objects of permittee from the permit area. If such furniture is not reclaimed by the permittee within seven (7) days after removal by the City, the property shall be presumed abandoned and subject to disposal.

(4) The permittee shall be subject to the penalty provisions and procedures set forth in section 10.99 of the Mattoon Code of Ordinances.

Section 3. Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 4. Effective Date. This ordinance shall be effective upon its publication and approval as provided by law.

Upon motion by Mayor White, seconded by Commissioner McKenzie, adopted this 18th day of September, 2007, by a roll call vote, as follows:

AYES (Names): Commissioner Cline, Commissioner Ervin,
Commissioner McKenzie, Commissioner Schilling,
Mayor White

NAYS (Names): None

ABSENT (Names): None

Approved this 18th day of September, 2007

/s/ Charles E. White
Charles E. White, Mayor
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen
J. Preston Owen, City Attorney & Treasurer

Recorded in the Municipality's Records on September 19, 2007.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner Schilling moved to adopt Special Ordinance 2007-1245, ratifying the employment agreement of Jeffrey M. Branson for the position of Deputy Police Chief.

CITY OF MATTOON, ILLINOIS

SPECIAL ORDINANCE NO. 2007 - 1245

**AN ORDINANCE RATIFYING THE EMPLOYMENT AGREEMENT OF
JEFFREY M. BRANSON FOR THE POSITION OF DEPUTY POLICE CHIEF**

BE IT ORDAINED by the City Council of the City of Mattoon as follows:

Section 1. The City Council hereby approves an Employment Agreement with Jeffrey M. Branson for the position of Deputy Police Chief, a copy of which is attached hereto and incorporated herein by reference.

Section 2. **This ordinance shall be deemed published as of the day of its adoption and approval by the City Council.**

Section 3. This ordinance shall be effective upon its approval as provided by law.

Upon motion by Mayor White, seconded by Commissioner Schilling, adopted this 18th day of September, 2007, by a roll call vote, as follows:

AYES (Names): Commissioner Cline, Commissioner Ervin,
Commissioner McKenzie, Commissioner Schilling,
Mayor White

NAYS (Names): None

ABSENT (Names): None

Approved this 18th day of September, 2007.

/s/ Charles E. White

Charles E. White, Mayor
City of Mattoon, Coles County, Illinois

ATTEST:

APPROVED AS TO FORM:

/s/ Susan J. O'Brien
Susan J. O'Brien, City Clerk

/s/ J. Preston Owen
J. Preston Owen, City Attorney

Recorded in the Municipality's Records on September 19, 2007.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Commissioner Cline seconded by Commissioner McKenzie moved to adopt Ordinance 2007-5241, replacing Ordinance 2007-5233, adopting a municipal retailers' occupation business district tax, business district service occupation tax and business district hotel operators' occupation tax to reflect the City of Mattoon will administer, collect, and enforce the South Route 45 Business District Hotel Tax as required by the Illinois Department of Revenue.

CITY OF MATTOON, ILLINOIS

ORDINANCE NO. 2007-5241

AN ORDINANCE, REPLACING ORDINANCE 2007-5233, ADOPTING A MUNICIPAL RETAILERS' OCCUPATION

BUSINESS DISTRICT TAX, BUSINESS DISTRICT SERVICE OCCUPATION TAX AND BUSINESS DISTRICT HOTEL OPERATORS' OCCUPATION TAX

WHEREAS, the City of Mattoon passed Ordinance No. 2007-5232 adopting the South Route 45 Business District Plan; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MATTOON, COLES COUNTY, ILLINOIS, as follows:

Section 1. Effective January 1, 2008, a tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail within the boundaries of the South Route 45 Business District at the rate of one percent (1.0%) of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged within the boundaries of the South Route 45 Business District in the business of making sales of service, at the rate of one percent (1.0%) of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service; and a tax is hereby imposed upon all persons engaged within the boundaries of the South Route 45 Business District in the renting, leasing, or letting of hotel rooms at the rate of one percent (1.0%) of the gross rental receipts from such sales made in the course of renting, leasing, or letting hotel rooms while this ordinance is in effect. This "Business District Retailers' Occupation Tax": and this "Business District Service Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics. This "Business District Hotel Operators' Occupation Tax" shall not be applicable to gross rental receipts from the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.

The imposition of these Business District Taxes is in accordance with the provisions of subsections (b), (c) and (d), respectively, of Section 11-74.3-6 of the Illinois Municipal Code (65 ILCS 5/11-74.3-6). The City Council shall adopt an ordinance to discontinue these Business District Taxes such that said taxes shall not be imposed for more than 23 years, in accordance with Illinois Law, within the time frame necessary to duly notify the Illinois Department of Revenue (not less than 3 months but no more than 8 months prior to changing the rate of the tax or discontinuance of the district).

Section 2. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto shall be collected administered, and enforced in accordance with 65 ILCS 5/11-74.3-6. In accordance with 65 ILCS 5/11-74.3-6 the City of Mattoon shall administer, collect and enforce the Business District Hotel Operators' Occupation Tax.

Section 3. The Municipal Clerk is hereby directed to file a certified copy of this ordinance with the Illinois Department of Revenue.

Upon its passage and approval, this ordinance shall be in full force and affect ten (10) days after its publication and pamphlet form is required by law.

Upon motion by Commissioner Cline seconded by Commissioner McKenzie, adopted this 18th day of September, 2007, by a roll call vote, as follows:

AYES (names): Commissioner Cline, Commissioner Ervin,
 Commissioner McKenzie, Commissioner Schilling,
 Mayor White

NAYS: (Names): None

ABSENT (Names): None

Approved this 18th day of September, 2007.

(SEAL)

/s/ Charles E. White

Mayor, City of Mattoon, Coles County, Illinois

Attest:

/s/ Susan J. O'Brien
City Clerk, City of Mattoon
Coles County, Illinois

Recorded in the Municipality's Records on September 19, 2007.

Mayor White opened the floor for discussion. No discussion.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner Ervin moved to approve Council Decision Request 2007-796, accepting the recommendation of the City Administrator to enter into an Engineering Services Agreement with HDC Engineering for the purpose of describing the legal boundaries and developing engineering cost estimates for the proposed Broadway East TIF and Business District Plans.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner Cline moved to approve Council Decision Request 2007-797, awarding the bid from T-N-Tuckpointing in the amount of \$23,548.00 for tuckpointing the common west wall located at 1611 Broadway, and authorizing the Mayor to sign all documents. [D to Z Sports]

Mayor White opened the floor for discussion. Mr. Meeker inquired whether the City owned the parking lot with Mayor White responding affirmatively.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Mayor White seconded by Commissioner Ervin moved to recess to closed session at 7:18 p.m. pursuant to the Illinois Open Meetings Act for the purpose of considering the price for sale or lease of property (5 ILCS 120(2)(c)(6)); the purchase or lease of real property (5 ILCS 120(2)(c)(5); and litigation affecting or on behalf of the City of Mattoon (5 ILCS 120/2(c)(11)).

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

Council reconvened at 7:54 p.m.

Mayor White seconded by Commissioner Schilling moved to adjourned at 7:55 p.m.

Mayor White declared the motion carried by the following vote: YEA Commissioner Cline, YEA Commissioner Ervin, YEA Commissioner McKenzie, YEA Commissioner Schilling, YEA Mayor White.

/s/ Susan J. O'Brien
City Clerk